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RUEHXI/LABOR COLLECTIVE PRIORITY
RUCNCRI/VIENNA CRIME COLLECTIVE PRIORITY
RUEHFK/AMCONSUL FUKUOKA PRIORITY 5122
RUEHNAG/AMCONSUL NAGOYA PRIORITY 3826
RUEHNH/AMCONSUL NAHA PRIORITY 7518
RUEHOK/AMCONSUL OSAKA KOBE PRIORITY 8787
RUEHKS/AMCONSUL SAPPORO PRIORITY 5752
RHMFIUU/FBI WASHDC PRIORITY
RUEAWJA/JUSTICE DEPT WASHDC PRIORITY

UNCLAS SECTION 01 OF 04 TOKYO 005646

SIPDIS

SIPDIS

EAP/J - MARC JACKSON, G/TIP - MARK TAYLOR, EAP/RSP - RUTH
KURZBAUER, L/LEI - SUSAN TORRES

E.O. 12958: N/A

TAGS: [PREL](#) [PHUM](#) [KCRM](#) [KWMN](#) [JA](#)

SUBJECT: TIP: FINAL CLARIFICATION OF JAPAN'S ROADMAP TO
TIER 1

REF: A. TOKYO 3186

- [B](#). HANSEN + G/TIP + EAP/J + EAP/RSP + L/LEI EMAIL
- [C](#). TOKYO 4953
- [D](#). TOKYO 3955
- [E](#). TOKYO 3817

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[1](#). This cable contains an action request. Please see
paragraph 4.

[2](#). Japan has begun taking steps to follow the "Roadmap to
Tier 1" (Ref A), MOFA International Organized Crime Division
TIP Officer Hiroko Sasahara told us December 20. Embassy
Tokyo Political Officer delivered Ref B's "Clarification of
Tier 1 Roadmap" (full text in paragraph 5) to explain and
answer the Japanese government's Ref E concerns about the
"Roadmap to Tier 1." Sasahara described a number of Roadmap
Actions that the government is working on including securing
native-language counseling for victims, posting warnings
about child sex tourism in airports, and studying victim
identification procedures. She said that she will forward
the new document to the other members of Japan's anti-TIP
inter-ministerial committee.

[3](#). Sasahara asked for specific examples of trafficking
crimes that the United States does not believe are
criminalized by Japanese law. Noting that there are 225
possible combinations of the Act, Means, and Purpose elements
trafficking in persons, Sasahara said that Ministry of
Justice officials believe that they have already provided
numerous examples of prosecuted trafficking cases, and would
like to know what specific crimes remain in doubt.

[4](#). ACTION REQUEST: Please provide Post with specific
combinations of the Act, Means, and Purpose that the
Department doesn't believe are criminalized by Japanese law.

[5](#). Begin paper text:

Clarification of Tier 1 Roadmap

--Summary--

On July 2, 2007, the U.S. Government delivered a roadmap for meeting the Minimum Standards of the Trafficking Victims Protection Act (TVPA) to the Japanese Government. To clarify the Tier 1 Roadmap, and to answer the Japanese Government's concerns over the roadmap, the United States presents the following clarification:

--General Clarification--

The "Actions" of the Tier 1 Roadmap with their corresponding suggestions for "best practices" were designed specifically for Japan in order to provide the information necessary for Japan to achieve a Tier 1 ranking in the TIP Report. They are directly linked to the minimum standards in the U.S. Trafficking Victims Protection Act (the "Act" or "TVPA"), which the Department of State is required to apply in assessing the anti-TIP efforts of every country with a significant number of victims of severe forms of trafficking in persons, as defined in the Act.

Although the specific action items identified by the United States for a country to improve its Tier ranking in the TIP Report may differ from country to country, the U.S. Government has defined steps that all countries must take to demonstrate compliance with the minimum standards. For example, to achieve a Tier 1 ranking, all countries must demonstrate a proactive and systematic effort to identify victims of trafficking by law enforcement officials as well as other front line responders. (An example of these procedures can be found in UNODC's "Toolkit to Combat Trafficking in Persons," starting on page 104: www.unodc.org/pdf/Trafficking_toolkit_Oct06.pdf). For more information about how Tier 1 countries demonstrate compliance

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with the minimum standards, please see the 2007 Trafficking in Persons Report.

--Clarification of Action 1--

Please see the document: "Clarification of Action 1."

Please also note that to meet the minimum standards of the TVPA, Japan must provide adequate sheltering services for trafficking victims, both women and men. Victim-support NGOs report that there are isolated cases of domestic trafficking in Japanese men for employment in "Host Clubs" as well as trafficking in foreign men for labor exploitation. Although the U.S. Government has not confirmed these reports, they are echoed by major Japanese newspapers. Japan's efforts to complete Action 1 will be evaluated in the 2008 TIP Report by whether the government provides adequate services to actual victims of human trafficking only.

--Clarification of Action 2--

Minimum Standard 4, Criteria 2 of the TVPA examines whether governments provide victims with "legal alternatives to their removal to countries in which they would face retribution or hardship." Trafficking victims do not qualify for social welfare, and the residential status authorized by Japanese law for victims of human trafficking prohibits them from operating businesses or engaging in activities for which they receive payment. Without the ability to support themselves financially, victims have no alternative to repatriation, even if they will face hardship or retribution.

Speedy repatriation is inevitable in Japan's current protection policy, regardless of possible hardship or retribution. The government automatically sends identified victims of human trafficking to Women's Consulting Centers

(WCCs) for temporary protection, but WCC personnel acknowledge that they accept victims with the understanding that the victims will be repatriated. The average stay in a WCC is two weeks. In addition, the International Organization for Migration (IOM) conducts Japan's only assessment of the consequences of repatriation, but IOM's mandate is to prepare victims for repatriation. Even if a victim will face hardship or retribution, IOM has no choice but to repatriate.

Note: we learned from the International Organization for Migration that there may have been a victim who after being repatriated to her home country, was then re-trafficked into Japan where she was deported as an illegal immigrant. Neither IOM nor the Embassy was able to confirm the truth of the report. To prevent cases like this from occurring, it is critical for Japan to implement a program to assess the consequences of repatriation before referring the case for repatriation assistance, and to provide alternatives when victims would face hardship or retribution if repatriated.

--Clarification of Action 3--

Please see the document: "Clarification of Action 3."

--Clarification of Action 4--

Minimum Standards 1-3 of the TVPA examine whether a country prohibits and sufficiently penalizes all "severe forms of trafficking in persons." The TVPA definition of human trafficking can be broken into three elements:

--Element 1: The act - recruiting, harboring, transporting, providing, or obtaining of a person

--Element 2: The means - the use of force, fraud, or coercion, or where the victim is under 18 years old

--Element 3: The purpose - commercial sexual exploitation, involuntary servitude, peonage, debt bondage, or slavery

In order to establish that Japan's laws are comprehensive, we asked for evidence that any combination of one of the above

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three elements is criminalized by Japanese law and is punishable by sufficient penalties. We understand that providing and obtaining a person through force for commercial sexual exploitation is illegal in Japan, but it is not clear to us whether Japanese law criminalizes other combinations of the elements. For example, is it illegal to recruit a person through fraud for debt bondage if the recruiter receives a fee from the broker, but does not "sell" the person himself? As requested by Ambassador Lagon during his July 2, 2007 meeting with Government of Japan officials in Tokyo, please provide information on trafficking cases prosecuted in Japan that show that Japan prohibits and sufficiently penalizes all combinations of the three elements, including severe forms of trafficking that do not involve "buying" or "selling" a person.

--Clarification of Action 5--

The National Police Agency has been cooperative with the U.S. Embassy in sharing information about the decrease in the number of protected victims during the last year. The United States requests continued cooperation from the Japanese Government as we prepare to write the 2008 TIP Report.

Action 5 is related to Action 3, please also see the document: "Clarification of Action 3." Formal training for law enforcement officials in victim identification procedures is also critical for a government to demonstrate that it "vigorously investigates and prosecutes" trafficking in persons.

--Clarification of Action 6--

Although we are aware that the Ministry of Justice has announced that it will tighten guidelines governing the Industrial Trainee and Technical Internship ("foreign trainee") program, the United States maintains that the foreign trainee program is too vulnerable to abuse and should be eliminated. We have heard numerous reports of working conditions that clearly meet the definition of trafficking in persons. In every case that we reviewed, the exploited worker was not classified as a victim of human trafficking and did not have access to services provided for victims of sex trafficking.

Note: These reports come from credible sources, including shelters that provided housing to trainees after they escaped, labor rights activists, and NGOs. It is Department policy to protect the confidentiality of these meetings. The U.S. Government did not independently verify the veracity of the reports. Japan's efforts to complete Action 6 will be evaluated in the 2008 TIP Report by whether proper victim identification procedures are being used by official personnel who have contact with foreign trainees and other laborers, NOT by whether these procedures have a 100% success rate.

Please see the document "Clarification of Action 3" for a detailed explanation of victim identification procedures that would meet the minimum standards of the TVPA.

--Clarification of Action 7--

We are aware of the arrest under a law with extraterritorial application of 10 Japanese offenders during the last 7 years who committed acts of child sexual abuse in foreign countries. We have heard a report from an NGO in a Southeast Asian nation that a Japanese Consular Officer assisted a Japanese man in returning to Japan before he could be prosecuted for engaging in sex with a minor child. The U.S. Government was unable to verify the veracity of the report. Japan's efforts to complete Action 7 will be evaluated in the 2008 TIP Report by whether the Japanese Government sends periodic instructions to the National Police Agency and to Japanese Embassies and Consulates instructing officials to cooperate with foreign authorities in prosecuting possible child sexual exploitation cases against Japanese nationals.

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--Clarification of Action 8--

Although the Japan Association of Travel Agents and the Overseas Tour Operator Association adopted the "Code of Conduct for the Protection of Children from Sexual Exploitation from Travel and Tourism" in 2005, Japanese men continue to be visibly prevalent in Southeast Asian neighborhoods known for child prostitution. This information comes both from reports by NGOs in Japan and in Southeast Asia as well as from informal U.S. Government surveys. Japan's efforts to complete Action 8 will be evaluated in the 2008 TIP Report by whether the government conducted a widespread campaign to raise public awareness of the terrible impact of child sex tourism and warn potential Japanese offenders of prosecution under the extraterritorial provisions of the child prostitution law. For example, these warnings would be especially effective if prominently displayed in airport departure lounges.

--Clarification of Action 9--

Please see the document explaining the U.S. position on child pornography legislation in Japan.

End paper text.
DONOVAN